

VIRGINIA EMPLOYMENT COMMISSION

DECISION OF COMMISSION

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Decision No.: 11218-C

VOLUNTARY LEAVING - 365.15
Prospects of other work:
Definite.

Date: November 13, 1978

This is a matter before the Commission on appeal by the employer from the decision of the Appeals Examiner (No. UI-78-3750), dated June 14, 1978.

ISSUE

Did the claimant leave work voluntarily without good cause as provided in Section 60.1-58(a) of the Code of Virginia (1950), as amended?

FINDINGS OF FACT AND OPINION

The Commission adopts the Appeals Examiner's Findings of Fact, which read as follows:

"The claimant appealed a determination of Deputy which disqualified him for benefits effective April 30, 1978, for having left work voluntarily without good cause.

"The claimant had been employed with Rodchester (sic) Manufacturing Company of Rodchester (sic), Michigan from August 12, 1977, through March 24, 1978, as a machinist and forklift driver, working on the midnight until 7:00 a.m. shift at a pay rate of \$6.10 per hour. On the latter date, the claimant had informed the employer that he was returning to Virginia to accept employment with the Clinchfield Coal Company. The claimant had made a trip to Virginia shortly before this date of March 24, 1978, and secured a promise of employment with Clinchfield Coal Company. The claimant had proceeded to take his physical examination and complete all paperwork for the hiring. The results of the medical examination were successfully completed, except for the x-ray portion, which had to be sent away for a reading, prior to the claimant's returning to the Michigan area. The claimant had been informed that he would be able to go to work within the week when the x-rays were returned. The claimant returned to Michigan, settled his affairs, separated from his employer, and returned to Virginia to accept the offer of employment. A few days following his return to Virginia, the claimant was contacted by the mining company and notified that his application had been rejected, due to an unspecified back problem. The position with

the mining company would have paid the claimant approximately \$64.00 a shift. Prior to going to Michigan, the claimant had worked at one of the mining related occupations and had had no problems in passing their physicals."

Section 60.1-58(a) of the Virginia Unemployment Compensation Act provides a disqualification if it is found a claimant left work voluntarily without good cause. The phrase "good cause" has been consistently construed to embrace a claimant's decision to change from one job to another where he has a reasonable expectation of improving his economic status. The Commission likewise has been consistent, however, in holding that the job to which a claimant transfers is permanent or he has a reasonable basis for believing it to be, and he actually has obtained the job in contrast to mere anticipation of securing it. Although the claimant in this case had reason to believe that he would pass the new employer's physical examination, he had not done so, and therefore did not have a valid employment contract at the time of leaving his last thirty-day employer. Inasmuch as the claimant did not have a valid contract with a definite and unrestricted start-to-work date at the time of leaving his prior employment, it is concluded that he is subject to the disqualifying provisions of the Act. (Underscoring supplied)

DECISION

The decision of the Appeals Examiner holding that no disqualification be imposed in connection with the claimant's separation from his last employment is hereby reversed. It is held that the claimant is disqualified for benefits effective April 30, 1978, for any week benefits are claimed until he has performed services for an employer during thirty days, whether or not such days are consecutive, because he left work voluntarily without good cause.